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801.0004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dobbins
Serial No.: 09/960,595
Filed: September 21, 2001
For: METHODS AND APPARATUS FOR AN ELECTRONIC DROP SAFE
Group: 3627
Examiner: Joseph A. Fischetti

Durham, North Carolina
September 15, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Request for Withdrawal of Finality
of Last Official Action Mailed March 29, 2005

Sir:

Applicant requests withdrawal of the finality of the last Official Action and the reopening of prosecution of this case. A Notice of Appeal was filed June 21, 2005 and a petition for a one month extension of time and authorization to charge Deposit Account No. 50-1058 the small entity fee of \$60 for a one month extension of time accompany this Request.

History of the Case

On May 20, 2004, Mr. Bartuska, the then Examiner of this case, mailed a final Official Action. That final Official Action rejected several of the then pending claims based on Brooks U.S. Patent No. 6,067,330 (Brooks) in view of Miller et al. U.S. Patent No. 5,202,825 (Miller),

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the others were rejected based on Brooks in view of Miller further in view of Green et al. U.S. Patent No. 6,443,359 (Green). Having learned that Mr. Bartuska had retired and that responsibility for the case was now with Examiner Chilcott, a telephone interview was held with Mr. Chilcott on August 19, 2004. A proposed amendment was discussed which the Examiner indicated appeared to overcome the rejection based upon Brooks and Miller.

An RCE was then filed along with a Preliminary Amendment making the proposed amendment. A first action final Official Action was mailed on December 1, 2004. All of the claims were rejected based on Brooks, Miller and newly relied upon Reger U.S. Patent No. 6,643,843 (Reger) or Brooks, Miller, Reger and Green.

In response, it was shown that Reger was commonly owned and could not be relied upon. Rather than allowing the case as it would have been appropriate if the first action final had made all possible rejections, a new final Office Action was mailed March 29, 2005. All of the claims were now rejected based upon Brooks in view of Miller and Martin et al. U.S. Patent No. 5,988,348 (Martin) or Brooks, Miller, Martin and Green.

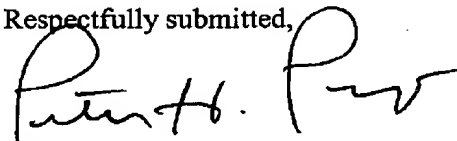
Latest Action Should Be Non-Final

At page four, the latest final Official Action states: "All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office Action if they had been entered in the earlier application." This statement is contrary to the record. Martin was not of record. The preliminary amendment clearly overcame the art of record as established by not one but two different rejections seeking to reject those claims on combinations of art making reliance upon newly cited art.

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In conclusion, the finality of the most recent Official Action should be withdrawn. In light of the reassignment of this case to a new Examiner, the opportunity to conduct a telephone Interview is also respectfully requested.

Respectfully submitted,



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CERTIFICATION OF FACSIMILE TRANSMISSION

Sirs:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. 571-273-8300 on the date set forth below

1. Petition for One Month Extension of Time;
2. Request for Withdrawal of Finality of Last Official Action Mailed March 29, 2005 (3 pages)

Marianna Tortorelli

Printed name of person signing

Marianna Tortorelli

Signature

Date: September 15, 2005